42 /266/ /The following paragraph is in small type in the original source./ "Let it be known to him who, if God wishes, would stop here, O family and doctors of the Mussulmans, the a. Waẑziẑ of Alus make public and decry, raising their plaint up to the throne of Misericord, that the a. H'sayn..., that they make istirᶜẑ' against them on the parcels... [The indication of a long conflict follows] ... They have nothing here, and their usufruct is but usurpation. The a. Waẑziz complain before the people of the Tamgonsi, large and small, men and women, free and slave..."

42 What counts here is not the "reserve" that a more evolved right would stipulate, bringing into play some theory of the vice of consent. It is the imprecatory value of the attitude. The solemnity of the expression has been noted. This cry causes "the throne of God" to shake, which recalls the very image of an old Greek formula. Doubtlessly, one addresses oneself to God and blasts an injustice. But the religious and moral coloration certainly does not go back to the most ancient base. One conjectures this base from the various gestures (1)

1. In a neighboring domain, the Gedmiwa, some of these gestures are described in an in. /unpublished/ study by Lepage, Le droit coutumier des Gedmiwa /The customary law of the Gedmiwa/.

by which the reaction of the victim is expressed still today.

This is first of all an interjection, ẑwqẑwq. It rejects tendentious allegations, draws attention to bad faith, and appeals against the powerful. In graver cases of oppression, characterized by a continuous state, the weak one has at his disposal a crescendo of means: to carry a candle end, lqandil, to the court of the judge, to wander through the villages, the head smeared with the soot coming from the breaking of a pot or covered with a mat; to proclaim, to make public, berrh', in the markets that one is the victim of so and so. Beyond that there is emigration, a frequent

/314 cont./

792 complicity with the heavens, a complicity that is bought with many indulgences or even at the price of money. Ethnology has made us familar with these incarnations, or these collusions: even though an Islamism that is never wanting, perhaps because it corresponds in the case at hand to a very keen critical sense, acknowledges for the agurram divine favor or gratification, but by no means association with the divine.

Not the slightest nuance of this famous "anthropolâtrie berbère" /Berber anthropolatry/ with which certain ethnologists rather indiscreetly regale themselves! And even, what is striking in the milieu, that all the consequences are drawn from such privilege, without the slightest ethical nuance being mixed up in [577] it. To each his role. The good believer strives for virtue. The marabout enjoys baraka and, accordingly, may make his entire life a feast or carnival: without reproach, he can be the fully natural man. One could say of /315/ him, parodying Nietzsche's phrase, that he has the right to be "the hottest of hot monsters" /Fr. le plus chaud des monstres chauds/.

792 The attitude of the faithful with regard to him is very clear
781 here: attentive and somewhat interested service, tender or secretly envious devotion, but realistic judgment, complete [778] moral independence. The baraka is revered, and, still better, "served," but strictly encompassed in a system of division of labor in which the marabout does not overstep the function imparted to him by belief and the mores. Consigned to his function, his exemptions, his exceptions, he must leave space, for the rest, for the civil order.

Men of God

792 Let us go on to more individualized types.

First the doctor. Our collection of the psychological paradoxes of the ground would not be complete if one did not mention at this place a learned citizen who left the montagnard sanctuary and hid from Z'init'. In Marrakech, moreover, he

/329 cont./

212 695 Such-and-such a jrîda, "list of parcels," victoriously brandished in support of a case, rests only upon the absolutely unilateral allegations of an ancestor: what belief would it merit in strict 212 proceedings? From that, too, the frequency of falsehood. In the 695 judiciary jousting, every expedient counts. What is falsehood 695 after all, if not a meritorious trait of craftiness, of concern to give better proof, and, finally, of intelligence in the dispute? More profoundly, if the force of a title consists on the one hand of its very material, on the other hand, of the emotional intensity that it reveals on the part of the usager or avowant — force of the thing on one side, force of the person on the other, /330/ the distinction between false and authentic act will be only subtlety. This is indeed what, even today, the litigants as well as the judges confusedly feel.

695 212 The notion of oral testimony, on which the written act rests in fiqh, could not therefore find total application here. On the one side it is replaced, in case of conflict, by chirographic proof (1).

1. Thus decided, in 1953, apropos a case of this kind, the Tribunal coutumier /Customary Court/ of the Seksawa.

695 On the other side, it is surpassed by sworn law: plural oath among others. The "witness" is effaced before the coswearer. Here the ordeal, there the human word.

... The Oath

One knows how much the cojuratio, by its still indicated magical character, mixed with rough computations, has retained the attention of our sociologists (2).

2. Summary bibliography and discussion in J. Berque, "Les Ajwiba d'al-ᶜAbbâsî /The Ajwiba of al-ᶜAbbâsî/," R. al., 1950, under §15.

/393 cont./

175 121 Intellectual, technical, and linguistic shock. Simultaneously a phenomenon better understood agitated all of Morocco. This was the reaction of the masses before the Christian enterprises of the littoral. New burst of hagiology. The "tireurs" /marksmen, drawers/ pursued in the most remote cantons their confreric training. Saints swarmed. Their high-colored figure formed the synthesis between the Islamic universals and the ritual forces of the canton. Thus, the great South "pole," sidi Ah'med u Musa. Although, since the Mérinides, the Seksawa mountains remained in a fierce isolation, one cannot grant that they remained completely apart. There, as undoubtedly elsewhere in the Sous, the man of God and the warrior, with the rural notary, henceforth made up a /394/ triptych by which this society expected to resolve its contrasts.

[137] [177] At the same time there arrived in the depths of lost valleys, in the form of new plants, or new money, some of the great movements that were then shaking the world: plant revolution of maize, attraction of the great colonial exploitation with sugar cane, appeal of the factories of the littoral, latest triumphs of the importation of Sudanese gold. All this created a conjuncture of a singular power, which corresponds in the chronicles to the rise of these petty marabouts of the bend of the Drâ, the Saâdians. Node of economy, of institution, of spirituality, of event. Can one go back farther? This is what, too hypothetically without doubt, one has attempted to do.

Ideals and Comportments

577 [128] [184] Let us now jump four or five centuries to carry ourselves to the beginning of the twentieth. Let us abandon the historical reconstitution and the analysis of the actual institution in order to perceive the morality. Is it already too late? Here is what we can observe in any one of the Seksawa taqbilt-s.

[571] All personal existence here is enclosed in the confused ensemble of affective relations. Wasps' nest of comportments, all having their moral qualification, as well as their economic

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/394 cont./ foundation. The result is this judiciary tension in which the person has his place, which defines him. This stage is not that of the old group solidarities. Nevertheless it stems from it. In certain respects, it expresses it, in rejuvenating it. Proceedings here have, even more than a role of extinguishing trouble, a role of maintainer of the trouble. Its essential function is to reveal and to keep watch of the individual and collective lives. This is the very function of the rite in other societies. This one, harsh, rational, polemical, has a more juridical than religious bent. It finds its privileged moments in judicial tension rather than in religion. It is a society -- own genius or historical factors -- at the stage of dialectic and moral indignation.

This moral coloration is very important. It produces antagonisms in a very much constructed communal milieu. It also produces the heated asides of individual resentment.

Partisanship, vengeance, what people will say become the motive forces of an existence that perpetually oscillates between the two faces of the oppression: submit or make submit. There is scarcely any intermediary plane. That certainly not from the lack of a sense of imminent justice, but from a keen appetite for reparation. An /395/ unfathomable heredity imposes in all its rigor the persecutor-persecuted alternation, revealing the hazards of a milieu nevertheless profoundly egalitarian.

The enormity of the legacy of oppression governs the reactions of the passions to the extent that any success obtained in the revendication appears out of proportion with the immense failure of the past. Sterile tumults, repression in an economy where the forces of the man are untiringly wasted impose a heavy heritage of vengeance.

Whence it comes that, over against modern law, where the matter judged guarantees social stability, it would be to the protection of an indefinite possibility of instance, of a perpetual deferment of trial, that the Seksawa aspire. That is related not only to the structure of such a milieu, but also to an unconscious calculation of the probabilities. The civil life being defined for each one by insertion into the inextricable web of the disputes and

/395 cont./

competitions of the group, the number of affairs where a good objective law could have made victory anticipated before a jurisdiction likewise objective -- but is it? -- is ludicrously small compared to that of the mad instances that hatred, appetite, fidelity impose. An instinctive realism thus governs the indefinite reconduction of litigations rather than a decision that would close debate, and dry up life.

Nevertheless, out of this confusion of passions and interests, of subtleties and angers, finally rises a sort of equilibrium. It is formed from the constancy that opposes indefinitely, that is to say, maintains in their respective positions, the rival factions. Tension becomes safeguard. Vengeance, the momentary possession of power, the success of a judicial stratagem compensate for, for a few moments, a few years, a few generations, the phases of persecution, poverty, or exile. The justice of this society thus governs the free exercise of each of the two terms of the alternative.

An appeal to outside intervention, which would consolidate one or the other, is properly inexpiable treason. Whence the rigorous penalties that the canton codifications devote to it: heavy fines, banishment, death. But let us not exaggerate. To enter into understandings with the neighbor, against the communal adversary, is a constant solicitation between these homogeneous cantons, bound by obscure solidarities. Neither would peace offer here the security that this word arouses in a modern mind, nor war the unconditional violence and leap into the unknown that it is for us. Here war is but an infraction of the rules of the game. But it is also the recourse to a larger game. Rapine and vengeance /396/ are practiced in the one case as well as in the other one. More than individuals, it is families who are the protagonists. Exactly like the Fabia gens, certain ones carry on alliances and rivalries by themselves. War is the prolongation of municipal tensions. Unless, inversely, they result from larger disputes. To what therefore does the notion of taqbilt correspond, on both sides of which are disposed the one and the other tension, thus similar and interdependent, and to what extent does it constitute a